

FILED
MISSOULA, MT

2006 SEP 15 PM 1 36

IN THE UNITED STATES DISTRICT COURT
PATRICK E. DUFFY

FOR THE DISTRICT OF MONTANA

DEPUTY CLERK

MISSOULA DIVISION

CHARLES R. STRONG,)	CV 05-145-M-DWM
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
JO ANNE B. BARNHART,)	
Commissioner of Social Security,)	
)	
Defendants.)	
)	

United States Magistrate Carolyn S. Ostby entered Findings and Recommendation in this matter on August 3, 2006. Plaintiff Strong did not file objections and is therefore not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1) (2006). This Court will review the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).


It is Judge Ostby's recommendation that the Commissioner's motion for summary judgment be granted and the Commissioner's decision be affirmed. I find no clear error in Judge Ostby's Findings and Recommendation and I adopt them in full. The Court

notes that prior to its review of the case, Stowe received an administrative hearing on the matter and then Judge Ostby reviewed the case on a substantial evidence/legal error basis. The Parties are familiar with the factual and procedural background and so they will not be restated.

The Court finds no reason to doubt the validity of Judge Ostby's recommendation when the Administrative Law Judge reasonably concluded 1) Stowe's allegations concerning his disability were not fully credible; 2) Stowe admitted that he failed to properly treat his diabetes and hypertension; 3) Stowe did not seek appropriate medical treatment; and 4) Stowe engaged in activities that were inconsistent with his alleged physical capabilities.¹ Based in part on these reasons Judge Ostby supported the Administrative Law Judge's decision and so do I.

Accordingly, IT IS HEREBY ORDERED that I adopt Judge Ostby's Findings and Recommendation (dkt #13) in full: the motion for summary judgment (dkt #7) is GRANTED and the Commissioner's decision is AFFIRMED.

DATED this 15 day of September, 2006.



¹ Stowe suffers from polycystic disease of the kidneys, liver, and spleen.